

3

1 WILLIAM D. PAHLAND, JR. (Bar No. 215332)
 2 MILLER STARR REGALIA
 3 A Professional Law Corporation
 4 1331 N. California Blvd., Fifth Floor
 5 Post Office Box 8177
 Walnut Creek, California 94596
 Telephone: (925) 935-9400
 Facsimile: (925) 933-4126
 Email: william.pahland@msrlegal.com

FILED *mg*

NOV - 5 2010

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

6 Attorneys for Creditor
 7 CHICO LAND DESIGN PROPERTIES
 CORPORATION

8
 9 UNITED STATES BANKRUPTCY COURT
 10 EASTERN DISTRICT OF CALIFORNIA
 11 SACRAMENTO DIVISION

12 In Re: Case No. 10-46031-E-13L
 13 TERRY LEE TAYLOR, dba FOUR Chapter 13
 14 SEASONS ROOFING; and LISA
 LOUIS TAYLOR,
 15 Debtors.

16
 17 STIPULATION BY DEBTORS, TERRY LEE TAYLOR dba FOUR SEASONS
 18 ROOFING AND LISA LOUIS TAYLOR, AND CREDITOR, CHICO LAND DESIGN
PROPERTIES CORPORATION FOR RELIEF FROM AUTOMATIC STAY

19 RECITALS

20 A. WHEREAS, TERRY LEE TAYLOR, dba FOUR SEASONS ROOFING
 21 ("Debtor") entered into a construction contract to install roofing and waterproofing systems at the
 22 Yosemite Terrace Apartment Complaint (the "Project"). The Project is located in Chico,
 23 California.

24 B. WHEREAS, following Debtor's completion of its work at the Project, the
 25 Project was sold to Yosemite Terrace Apartment Investors, L.P. ("YTAI"). After purchasing and
 26 obtaining possession of the Project, YTAI filed a Complaint in Butte County Superior Court as
 27 Case Number 142072 (the "Action") alleging that Debtor's work at the Project was defective.

28

3

1 C. WHEREAS, in connection with YTAI's lawsuit, CHICO LAND DESIGN
2 PROPERTIES CORPORATION ("Creditor") filed a cross-complaint naming Debtor as a cross-
3 defendant and asserting theories of equitable indemnity, express indemnity, and declaratory relief
4 against Debtor.

5 D. WHEREAS, upon receiving service of Summons in the Action, Debtor
6 tendered to his insurers the defense and indemnity of the Action.

7 E. WHEREAS, Debtor's insurers accepted Debtor's tender and retained
8 counsel on its behalf.

9 F. WHEREAS, on October 5, 2010, Debtor filed a Voluntary Petition under
10 Chapter 13 of the Bankruptcy Code.

11 G. WHEREAS, Creditor seeks relief from the automatic stay to allow it to
12 continue the above-referenced litigation against Debtor to litigate the extent of Debtor's liability,
13 if any, and to seek recovery of any such liability from Debtor's insurance carrier(s) through
14 judgment and appeals, if any, regarding any and all claims and defenses.

15 H. WHEREAS, the parties believe that the Stipulation is in the best interest of
16 creditors. Based on the foregoing:

17 IT IS HEREBY STIPULATED by and between Debtor and Creditor that:

18 1. Upon entry of an Order by the Bankruptcy Court approving this
19 Stipulation, Creditor will immediately be granted relief from the automatic stay for the limited
20 purpose of proceeding with the Action against Debtor to litigate the extent of Debtor's liability,
21 so long as Debtor is being defended by its insurance carrier(s), and to seek recovery of any such
22 liability from Debtor's insurance carrier(s) only through judgment and appeals, if any, regarding
23 any and all claims and defenses. Creditor does not waive its right to submit a Proof of Claim and
24 recover from Debtor's bankruptcy estate.

25 2. This Stipulation shall remain binding if this case is converted to any other
26 chapter under the Bankruptcy Code.

27

28

3

1 Dated: October 25, 2010

MILLER STARR REGALIA

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

By:

William D. Pahland, Jr.

WILLIAM D. PAHLAND, JR.
Attorneys for Creditor CHICO LAND
DESIGN PROPERTIES CORPORATION

Dated: October 28, 2010

JACOBS, ANDERSON, POTTER &
CHAPLIN, LLP

By:

Douglas B. Jacobs

DOUGLAS B. JACOBS, Attorney for
Debtors, TERRY LEE TAYLOR, dba
FOUR SEASONS ROOFING; and
LISA LOUIS TAYLOR